

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

RICARDO AGUILAR
Plaintiff,

V.

ATS SPECIALIZED, INC., AND
ROBERT P. KOZAK,
Defendants.

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CIVIL ACTION NO.
(Jury)

NOTICE OF REMOVAL

TO THE HONORABLE COURT:

COMES NOW ATS SPECIALIZED, INC., and ROBERT P. KOZAK and file their
Notice of Removal and would respectfully show unto the Court as follows:

BACKGROUND INFORMATION

1. Plaintiff Ricardo Aguilar filed suit in Cause No. 2016CVT000966D3 in the 341st Judicial District Court for Webb County, Texas, on April 11, 2016. Defendant ATS Specialized, Inc. first received notice of this lawsuit on Monday, April 25, 2016, when its register agent was served with the petition.

2. Defendant Robert P. Kozak was served through the Chairman of the Texas Transportation Commission. On April 22, 2016, the Texas Transportation Commission received the citation for the service on Robert P. Kozak. In turn, the Texas Transportation Commission served Robert P. Kozak by mail on April 23, 2016.

3. Defendants timely file this Notice of Removal within the 30-day time period required by 28 U.S.C. § 1446(b).

NATURE OF THE SUIT

4. Plaintiff alleges that on May 12, 2015, he sustained damages as a result of a motor vehicle collision that occurred in Webb County, Texas.

5. According to Plaintiff's Original Petition, Plaintiff is an individual and is a citizen of the State of Texas. *See* Plaintiff's Original Petition, ¶ 2.

6. Defendant Robert P. Kozak was the driver of a tractor-trailer involved in the vehicle accident. Kozak is an individual and is a citizen and resident of the State of Wisconsin. *See* Plaintiff's Original Petition, ¶ 4.

7. Defendant ATS Specialized, Inc. is a corporation organized under the laws of the State of Minnesota. *See* Plaintiff's Original Petition, ¶ 3. Defendant ATS Specialized, Inc.'s principal place of business is located in the State of Minnesota.

BASIS FOR REMOVAL

8. Removal is proper because there is complete diversity of citizenship between Plaintiff and Defendants.

9. Plaintiff's Original Petition alleges damages in an amount that exceeds \$200,000.00. Accordingly, the amount in controversy exceeds \$75,000.00 exclusive of interest, costs, and attorney's fees.

VENUE AND JURISDICTION

10. Venue is proper in this district pursuant to 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action has been pending.

11. This Court has jurisdiction of this action by virtue of the provisions of 28 U.S.C. § 1332 in that this is a case of diversity of citizenship between the parties with the amount in

controversy exceeding \$75,000.00, exclusive of interest and costs. *See generally Garcia v. Koch Oil of Texas, Inc.*, 351 F.3d 636, 638 (5th Cir. 2003).

PROCEDURAL STATUS

12. Defendants attached to this notice all process, pleadings, and orders served upon Defendants in the state court action, as required by 28 U.S.C. § 1446(a). (*See*, Ex. A, Index of Matters Filed.)

13. In addition, a list of all counsel of record, including address, telephone numbers and parties represented is attached as Exhibit B. Defendant also files contemporaneously with this Notice of Removal two copies of a Certificate of Interested Parties, pursuant to Fed. R. Civ. P. 7.1.

NOTICE TO STATE COURT

14. Defendants will promptly file a copy of this Notice of Removal with the clerk of the 341st Judicial District Court, Webb County, Texas, the State Court in which this action is pending.

Respectfully submitted,

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By: /s/ Lynn S. Castagna

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ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been sent by certified mail, return receipt requested, facsimile, or hand delivery to:

Via Facsimile: 281/331-1105

Gene S. Hagood
THE LAW OFFICES OF GENE S. HAGOOD
1520 E. Highway 6
Alvin, Texas 77511

in accordance with the Federal Rules of Civil Procedure, on this 9th day of May 2016.

/s/ Lynn S. Castagna
Lynn S. Castagna